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INTERNATIONAL COPYRIGHT UNION

BERNE CONVENTION, 1886 PARIS CONVENTION, 1896

BERLIN CONVENTION, 1908

REPORT OF THE DELEGATE OF THE UNITED
STATES TO THE INTERNATIONAL CONFERENCE
FOR THE REVISION OF THE BERNE COPY-
RIGHT CONVENTION, HELD AT BERLIN, GER-
MANY, OCTOBER 14 TO NOVEMBER 14, 1908

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BULLETIN No. 13

WASHINGTON
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1908

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**REPORT of the Delegate of the United States to the International Conference
for the Revision of the Berne Copyright Convention, held at Berlin,
Germany, October 14 to November 14, 1908.**

LIBRARY OF CONGRESS, COPYRIGHT OFFICE,
Washington, December 8, 1908.

SIR: A conference was arranged to take place in Berlin, beginning October 14, for the purpose of revising the text of the Berne convention establishing the International Copyright Union.

The German Government included in the invitation to the different States to participate in this conference countries not signatories of the original convention. A note from the German ambassador at Washington to the Secretary of State outlined the scope and purpose of the conference, and invited the United States to send delegates. The Department of State transmitted the invitation to the Librarian of Congress, asking for an expression of his views with regard to possible representation from the Copyright Office. This inquiry led up to my designation by the Secretary of State as the United States delegate to the conference, and a formal certificate of designation to that effect was transmitted to me on May 27, 1908. The correspondence leading to this designation is set out in full below.*

With these credentials I went to Berlin and was present at the conference from the date of its formal opening on October 14 up to November 9. The next full meetings of the conference after that date would be for the purpose of voting upon the provisions of the draft convention and signing the final text. As I had neither power to vote nor to sign, and as it was extremely doubtful, for various reasons, how soon the next full meeting could be called, I felt authorized to conclude not to wait over for these final sessions of the conference, and I therefore left Berlin on the night of November 9 to return to Washington. The conference adjourned on November 14.

The method of procedure of the conference was as follows: Initial full meetings were held for the purpose of submitting proposals for the amendment of the text of the international convention. Then followed frequent full meetings in the nature of sittings as a committee of the whole for the discussion of the proposals submitted and for voting upon them. The voting was by a call of countries, only countries actually members of the International Copyright Union being entitled to vote.

* This correspondence is not reprinted; for certificate of designation, see p. 7.

Thereafter followed adjournment in order to allow the committees appointed for specific work time to prepare reports for submission to the conference.

I attended all the full sessions of the conference held up to November 9. The third secretary of embassy, Mr. Arthur Orr, who was courteously detailed by the American ambassador at Berlin to attend, was also present at the conference meetings.

Only representatives from countries within the International Copyright Union were appointed upon the working committees, and I was therefore not present at such committee meetings nor did I in any way take part in their deliberations.

I was present at the conference meetings only as an interested observer. An expression, however, was asked for at the beginning of the conference as to the position of the United States and explanatory of my attendance as a delegate. In compliance with the request I made a brief statement, which was read in French to the conference on October 15. This statement is given in full in the formal part of my report, which follows.

Seventy-six delegates participated. The personnel of the representation upon the part of the countries which as members of the union took an active part in the formation of the new articles of convention was noticeable. Germany, France, Great Britain, Italy, and Belgium, in addition to diplomatic and administrative representatives, delegated men of standing in literature and technical experts in matters relating to copyright. The representation included Prof. Josef Kohler, Dr. Franz Hermann Dungs, and Prof. Albert Osterrieth (for Germany); Prof. Ernest Lavisse, the historian, Mr. Paul Hervieu, the dramatist (both members of the French Academy), Prof. Louis Renault, Mr. Fernand Gavarry, Mr. Georges Lecomte, president of the Société des Gens des Lettres; Mr. Georges Breton, director of the French patent office, and Mr. Jean Gout (for France); Sir Henry Bergne and Mr. George Ranken Askwith, assistant secretary of the board of trade (for Great Britain); Mr. Samuele Ottolenghi, Mr. Emilio Venezian, and Mr. Augusto Ferrari (for Italy); Mr. Jules de Borchgrave, the author of the present copyright statute of Belgium, and Mr. Paul Wauwermans (for Belgium). Of these representatives, two, Sir Henry Bergne and Professor Renault, were distinguished as having participated in the former conferences which framed the convention of 1886 and in the first conference of revision, Paris, 1896. They were notable members of the congress. Professor Renault presided over the working sessions with exceptional administrative skill and great knowledge of the subject of copyright.

Sir Henry Bergne, as the head of the British delegation, was listened to with marked respect and deference, and his simple and kindly bearing won for him much friendly regard. He was taken ill on Novem-

ber 6 and died on November 15. His sudden and fatal illness cast a dark shadow over the last days of the conference. There was upon the part of the delegates a sense of personal loss and a deep feeling of regret that after more than a quarter of a century's service in behalf of international copyright his life should pay the forfeit and come to a close with the termination of the conference.

In the formal part of my report, which follows, I have endeavored to indicate briefly the development of the Berne Union and to analyze the provisions of the new convention, making, in the case of some of the important changes, a comparison with the corresponding provisions of the former conventions.

Respectfully submitted.

THORVALD SOLBERG,
Register of Copyrights.

HON. ELIHU ROOT,
Secretary of State, Washington.

CERTIFICATE designating Thorvald Solberg, Register of Copyrights, as
United States delegate to the Berlin conference.

DEPARTMENT OF STATE.

To all to whom these presents shall come, greeting:

I certify that Thorvald Solberg, Register of Copyrights, Library of Congress, has been designated a delegate on the part of the United States to the conference of the International Union for the Protection of Works of Literature and Art to be held at Berlin, October 14, 1908.

In testimony whereof I, Elihu Root, Secretary of State of the United States of America, have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

Done at the city of Washington this 22d day of May, in the year of our Lord one thousand nine hundred and eight, and the one [SEAL.] hundred and thirty-second year of the independence of the United States of America.

ELIHU ROOT.

**REPORT of the Delegate of the United States to the International Conference
for the Revision of the Berne Copyright Convention, held at Berlin,
Germany, October 14 to November 14, 1908.**

The movement which resulted in the creation of the International Union for the Protection of Works of Literature and Art was initiated by the Association Littéraire et Artistique Internationale, an association founded at Paris in 1878, under the presidency of Victor Hugo, for the special purpose of securing in all countries adequate legal protection for literary and artistic property. A preliminary conference was held at Berne, Switzerland, in September, 1883, and a "Draft convention to constitute a general union for the protection of authors in their literary and artistic works" was then formulated as a basis for discussion. This was submitted for consideration by the Swiss Government at the first international conference for the protection of the rights of authors, held in Berne from September 8 to 19, 1884. At this meeting representatives were present from Austria, Belgium, Costa Rica, France, Germany, Great Britain, Haiti, Italy, the Netherlands, Salvador, Sweden and Norway, and Switzerland, and the result of their deliberations was a new "Draft convention for the creation of a general union for the protection of the rights of authors."

A second international conference met in Berne from September 7 to 18, 1885, for the further discussion of the project. This was participated in by representatives from the Argentine Republic, Belgium, Costa Rica, France, Germany, Great Britain, Haiti, Honduras, Italy, the Netherlands, Paraguay, Sweden and Norway, Spain, Switzerland, and Tunis. The United States was represented at that conference by a "listening delegate," Mr. Boyd Winchester, then the United States minister at Berne.

For further discussion of the matter and final revision of the text of the convention for the creation of an international union for the protection of works of literature and art, a third international conference met in Berne from September 6 to 9, 1886, and formulated the final text of the Berne convention. This was signed on the 9th of September, 1886, by the plenipotentiaries of Belgium, France, Germany, Great Britain, Haiti, Italy, Liberia, Spain, Switzerland, and Tunis.

By the seventeenth article of the convention of Berne of 1886 it was provided that the compact might be revised in international conferences, such conferences to be held successively in the countries of the union, and by the sixth article of the final protocol it was decided that the first conference of revision should be held at Paris between four and six years from the date of the coming into force of the treaty. As a matter of fact, the first revisionary conference was not held until 1896. The sittings were from April 15 to May 4 of that year.

A new substitute text was not agreed upon, but an additional agreement containing four articles and a declaration of interpretation were signed on May 4, 1896. The first modified articles 2, 3, 5, 7, 12, and 20 of the text of the convention and Nos. 1 and 4 of the "Protocole de clôture" and the second was explanatory of some of the provisions of the original treaty. Following the deliberations, the two texts—the convention of Berne and the additional act of Paris—were signed by Belgium, France, Germany, Italy, Luxembourg, Monaco, Montenegro, Spain, Switzerland, and Tunis, while Great Britain ratified only the act of 1896 and Norway only the convention of 1886 and the declaration of interpretation. These three separate documents form, from May 4, 1896, the basis of the Berne International Copyright Union, and as they were not all uniformly signed by all the countries of the union a new cause for embarrassment was created thereby.

This, with other matters of difficulty, urged the holding of the second conference of revision which met at Berlin on October 14 and adjourned on November 14, 1908. To this conference the German Government invited not only representation from the countries within the union, but also from countries not yet members of the copyright union. The following fourteen signatory States were represented: Belgium, Denmark, France, Germany, Great Britain, Italy, Japan, Luxembourg, Monaco, Norway, Spain, Sweden, Switzerland, and Tunis. Of the non-union countries the following were represented, twenty in number: Argentina, Chile, China, Colombia, Ecuador, Greece, Guatemala, Liberia, Mexico, the Netherlands, Nicaragua, Peru, Persia, Portugal, Rumania, Russia, Siam, the United States, Uruguay, and Venezuela.

Active participation in the discussions upon the part of representatives of nonunion countries was only in the case of such countries as are considering adhesion to the convention, e. g., Russia and Holland. The power to vote in relation to any proposal discussed was confined to countries within the union and the working committees were made up of representatives from union countries only.*

The United States delegate was present only to make observations and report, with no power to vote or to take part in the discussions. In

* Those committees were three: A committee to prepare a final text of convention ("Commission de rédaction"), consisting of MM. de Borchgrave (for Belgium), Lecomte and Renault (for France), Dungs and Goebel von Harrant (for Germany), Sir Henry Bergne and Askwith (for Great Britain), Ferrari (for Italy), and Baron de Ugglas (for Sweden); a committee to consider the proposal for a pension fund for the benefit of the officials of the Berne Bureau, consisting of MM. Breton (for France), Goebel von Harrant (for Germany), Askwith (for Great Britain), Ottolenghi (for Italy), Hoel (for Norway), and Kraft (for Switzerland); a committee to deal with the questions relating to the reproduction of music by means of mechanical instruments, consisting of MM. Wauwermans (for Belgium), Breton and Gout (for France), Robolski and Osterrieth (for Germany), Sir Henry Bergne and Askwith (for Great Britain), Ferrari (for Italy), and Ferraz (for Spain).

response to a request for an expression as to the position of the United States and in explanation of his attendance, however, he made the following statement to the conference on October 15:

In 1885 and 1886, at the conferences convened to draft the convention to create the International Union for the Protection of Literary and Artistic Property, the United States was represented. At that time, however, it was not deemed possible to send a plenipotentiary delegate, nor could such a representative be sent to attend the first conference of revision which met at Paris in 1896.

When the present conference was arranged for—early in the year—the German ambassador at Washington wrote to the Secretary of State of the United States a letter explaining the purpose and scope of this congress, inviting the Government of the United States to send delegates. The ambassador's letter explained that, in addition to delegates representing governments in the union, there would be present representatives from a considerable number of nonunion nations. It was further stated that the attendance of such delegates from nonunion countries would be greeted with special pleasure. This because of the conviction that whatever might be the final position taken by the nonunion countries, or their laws, in relation to copyright, the participation in the proceedings of this conference by such delegates from nonunion countries would at all events contribute to arouse and increase interest in the Berne Union and its beneficial work.

The German ambassador's letter further explained that the delegates from nonunion countries attending the conference would have full freedom of action; that they might confine themselves to following the discussions without taking any stand with regard to them, and that it would be left to the discretion of the nonunion governments as to whether they would empower their delegates to join the Berne Union.

The Government of the United States again finds it impracticable to send a delegate authorized to commit the United States to actual adhesion at this time to the Berne Convention. Nevertheless, it has been felt that the representation of the United States, even within the limitations indicated, might be beneficial: first, to indicate the sympathy of our Government with the general purposes of the International Copyright Union; second, to secure such information regarding the proceedings of the conference as might prove valuable; and third, to place (by means of such representation) at the disposal of the conference authoritative knowledge as to the facts of copyright legislation and procedure within the United States—information which it is hoped may be of use to the members of the conference in their deliberations.

The Secretary of State of the United States has done me the honor to designate me to attend this conference as a delegate on the part of the United States.

It is with sincere desire that my attendance here may contribute in some degree to the attainment of each of these three objects that I have crossed the ocean to be present. I trust, also, that this long journey taken for the purpose of being present here may be held to testify to my personal most sincere interest in, and admiration for, the objects of the Berne Union—that admirable association of many nations to secure adequate protection for literary and artistic productions.

It will be for me a great pleasure if my attendance here can be of service to the conference, or to any of its members.

Some of the questions to be discussed here are pending before the Congress of the United States in the copyright bill now under discussion. I should wish to avoid, therefore, taking any position in regard to the special matters in question—any position which might tend to commit the United States in advance to any line of policy which might embarrass the legislative branch of the Government of the United States in taking such action regarding these matters as it may finally deem advisable. But within that limitation—with the most hearty and cordial expression of my sympathy for the ends and purposes of the Berne Union—I beg to place myself at the service of the conference.

Professor Renault, the president at the working sessions of the conference, made the following explanatory statement in his report to the conference in regard to the representation from nonunion countries:

In virtue of a wisely liberal practice, the nonunionist States are invited to be represented at the conferences of the union, and many of them respond to the invitation, so that twenty such States actually have delegates at our conference. If the greater part show their interest in the union only by their presence and the attention which they are pleased to give to our discussions, still there are some who have made us friendly declarations and who have taken part in our deliberations, to which they have brought a useful contingent of observations. Without doubt they think that their countries will not always remain foreign to the work which they try to aid. We may be permitted to recall several declarations, the full interest of which the conference has appreciated, especially those of the Netherlands, of Russia, and of the United States.

The Netherlands were represented at Berne in 1884 and 1885; they did not sign the convention of 1886 and did not even figure in the conference of 1896. Their representation at this conference and

the number and quality of their delegates have therefore an importance which has happily been placed in relief by Dr. Snyder van Wissenskerke. The Netherlands Government desires sincerely to abandon the state of isolation in which its country from this point of view finds itself, and it hopes that the decisions of the conference will permit it to attain this result.

The Russian Government, on its part, thinks that the time has come when the exchange of literary, artistic, and musical productions must be governed by international arrangement, and among such arrangements those obtained by the labors of the international union occupy, without a doubt, the first place.

The plaudits of the conference have testified to the satisfaction with which these declarations, which are other than mere polite and commonplace promises, were heard. It will be seen that the conference recognizes perfectly the difficulty which these countries, till the present time foreign to the union, find in passing through the halting places, which it has itself gone through and in reaching at once the point which we are about to attain. The transitions will be managed, time being allowed to do its work.

Mr. Thorvald Solberg, chief of the Copyright Office in the Library of Congress, has on his part read a declaration which does not allow us to entertain the same hopes as the preceding declarations, but which has nevertheless its interest as coming from a country which plays so great a rôle in literary and scientific production. The Government of the United States manifests its sympathy for the end sought in general by the Berne Union and desires to be informed on the deliberations of the conference. Mr. Solberg, in making so long a journey for the sole purpose of being among us, has given a proof of his personal interest and of his admiration for our work which he now contributes, and will contribute, to make known in his country; we can but be grateful to him therefor.

The foregoing statements have a value from a double point of view—they allow us to hope for a new extension of our union; they show us that the character of our new regulations must be sufficiently pliable to be adapted to very diverse situations.

The convention as finally agreed upon was signed on November 13 in behalf of Belgium, Denmark, France, Germany, Great Britain, Italy, Japan, Liberia, Luxembourg, Monaco, Norway, Spain, Sweden, Switzerland, and Tunis. By resolution of the conference the official French text of it was printed in the November 15 issue of "*Le Droit d'Auteur*," the organ of the International Copyright Bureau at Berne, in order that it might be available at the earliest moment for the consideration of those having a legitimate interest in it.

The new convention consists of a single document of 30 articles, to take the place of the previous instruments of agreement, namely, the convention of Berne of September 9, 1886, including the additional article and the final protocol of the same day, as well as the additional act and the interpretative declaration of May 4, 1896. But the conventional acts above mentioned remain in force in the relations with the States which do not ratify the present convention, and the States signatory to the Berlin convention may, at the time of the exchange of ratifications, declare that they intend, upon such or such point, still to remain bound by the provisions of the conventions to which they have previously subscribed.

The full official French text of the new convention is appended and I add a complete translation into English. The more important provisions may be briefly summarized here and some of the effects of the changes proposed indicated by a comparison with the parallel provisions of the present treaties.

ANALYSIS OF THE BERLIN CONVENTION OF 1908.

Of the total of 30 articles, the last 10 provide for the International Copyright Bureau, its duties, administration, and expenses; future conferences of revision; the accession of countries not now within the union and of colonies and foreign possessions; ratifications; withdrawals from the convention; signing, etc., and their provisions do not materially differ from the corresponding provisions in the earlier documents.

General provisions—Basis of protection.

The Berlin convention proposes a new basis of international union by guaranteeing to the authors of any one of the countries of the union who publish for the first time in any one of those countries copyright thereby in all the other countries of the union. Not only is this protection declared not subject to any formalities whatever, but it is expressly declared independent of the existence of copyright in the author's work in his own country. (Arts. 4, 5.) By the Berne treaty of 1886 (article 2) an author of one of the countries of the union, upon obtaining copyright for his work in the country of origin by a compliance with the conditions and formalities prescribed by its laws, secures copyright (in accordance with their respective laws or treaty stipulations) in the other countries of the union. That is, an author, by virtue of his citizenship in one country and copyright secured thereby, obtains protection in the other countries; but by the Berlin convention the authors of each country within the union become, so far as copyright is concerned, citizens of the entire union, and the advantage is secured that the extent of the protection as well as the means of redress in case of infringement are regulated exclusively according to the legislation of each country where

copyright is claimed, except as the terms of the new convention may secure in some of these countries more extended rights. (Art. 4.)

Furthermore, the Berlin convention provides (article 6) that authors outside of the jurisdiction of any of the countries of the union who publish for the first time in one of those countries enjoy there the same rights as national authors, and in the other countries of the union the rights accorded by the convention. An American author, therefore, for example, whether he has secured copyright for his work in the United States or not, who first publishes his work in one of the countries of the union would seem able to secure copyright protection in all of the fifteen countries of the union, and this without necessity for compliance with any formalities whatever.

Protection of the author's rights.

To facilitate the new basis of international protection, the Berlin convention provides that the author's name when indicated upon the work in the usual way, or the publisher's in the case of anonymous or pseudonymous works, shall be considered sufficient proof of the authorship (until proof to the contrary) to permit procedure against infringers. (Art. 15.)

All infringing works may be seized in any country where the original is legally protected, and also reproductions coming into that country from another where the work has not been protected, or where the copyright has expired. (Art. 16.)

Subject-matter of copyright.

(a) *Works of architecture, cinematographs, etc.*—By the terms of the Berlin convention the subject-matter of copyright is extended to include the following, not expressly or completely covered by the Berne convention: Works of architecture, choregraphic works and pantomimes, when these are fixed in writing or otherwise; and cinematograph productions or productions obtained by any analogous process, when the authors shall have given to them a personal and original character, also reproductions of literary, scientific, or artistic works by means of the cinematograph. (Art. 14.)

(b) *Translations, adaptations, compilations, etc.*—The Berne convention provides for the protection of translations, and the Berlin convention adds in express terms that adaptations, arrangements of music, and other reproductions transformed from a literary or artistic work, as well as compilations from different works, are to be protected as original works. (Art. 2.)

(c) *Photographic works.*—In the case of photographs, the Berne convention provides that those countries of the union where the character of artistic works is not refused to photographs shall engage to

admit them to the benefits of the convention; the act of Paris of 1896 provides that photographic works shall be protected so far as the domestic legislation in each country allows, while by the Berlin convention each signatory country is pledged to guarantee protection to photographic works and to works obtained by any process analogous to photography. (Art. 3.)

(d) *Industrial art*.—The Berlin convention does not include in the copyright protection guaranteed works of art which are applied to industry, but provides that such works shall be protected so far as the domestic legislation of each country allows. (Art. 2, par. 4.)

(e) *Newspaper and magazine contributions*.—By the Berlin convention serial stories, novels, and other literary, scientific, or artistic works published in newspapers or periodicals may not be reproduced without consent, but other newspaper articles may be reprinted by another newspaper if reproduction has not been expressly forbidden, upon indicating the source, if the domestic legislation requires it. News having merely the character of press information is not protected. (Art. 9.)

Subsidiary rights.

(a) *Miscellaneous*.—The Berlin convention classifies as unlawful reproductions, indirect, unauthorized appropriations of a literary or artistic work, such as adaptations, arrangements of music, transformations of a romance or novel or of a poem into a theatrical piece and vice versâ, when they are reproductions in the same form or when not presenting the character of a new, original work. (Art. 12.)

Authors have the exclusive right to authorize the reproduction and public representation of their works by means of the cinematograph, and this invention, which has come into use since the original convention was framed, is further recognized by providing that cinematographic productions, when of an original character or when authorized reproductions of literary, scientific, or artistic works, are to be protected as original works. (Art. 14.)

(b) *Right of translation*.—By the provisions of the Berne treaty (article 5) authors are given the exclusive right of making or authorizing the translation of their works until the expiration of ten years from the publication of the original. The Paris act (article 3) amends this to secure to authors the exclusive right of translation for the whole term of protection in the original work if a translation is produced within ten years of publication, but the right is to cease if no translation has been produced within the ten years. The Berlin convention, however (article 8), secures to authors during the whole term of the copyright in the original work the exclusive right to make or to authorize the translation of it.

(c) *Dramatic works*.—The Berlin convention secures to authors the sole right of public representation both of the original and of a

translation in the case of dramatic or dramatico-musical works, whether published or unpublished, and eliminates any requirement to print on the published work any reservation of the right of representation. (Art. 11.)

(d) *Musical works*.—The Berlin convention gives to authors of musical works whether published or not the sole right of public performance, and it is especially stipulated that this shall be without any requirement to print upon the published music any prohibition of such public performance or representation.

Reproduction of music by means of mechanical instruments.

Authors of musical works are also secured the exclusive right to authorize (1) the adaptation of these works to instruments serving to reproduce them mechanically; (2) the public performance of the same works by means of these instruments. (Art. 13.)

This provision of article 13 takes the place of article 3 of the final protocol of the convention of 1886, reading as follows:

3. It is understood that the manufacture and sale of instruments for the mechanical reproduction of musical airs which are copyright shall not be considered as constituting an infringement of musical copyright.

The provisions of article 13 are to have no retroactive effect and are not to be applicable to works lawfully adapted to mechanical instruments before the going into force of the new convention. Any limitations or conditions relative to the application of such exclusive right of the musical author are to be determined by the domestic legislation of each country and to be strictly limited to that country, while adaptations of music to mechanical instruments if thus permitted, where imported without the authorization of the parties interested into a country where they are not lawful, may be seized there. (Art. 13.)

Term of protection.

The Berlin convention proposes a general term of copyright of the life of the author and fifty years after his death. (Art. 7.)

Of the countries now members of the union, eight—Belgium, Denmark, France, Luxembourg, Monaco, Norway, Sweden, and Tunis—have this term, and one, Spain, has a longer term, namely, life and eighty years. Of the other countries signing the new treaty and thus obligated to attempt to legislate this extended term, Italy has already a new project of law with a proposed term of life and fifty years; Germany, Switzerland, and Japan have now terms of life and thirty years; Haiti, life and twenty years, and England a term of life and seven years, or forty-two years, whichever is the longer.

It is provided, however, that should this general term not be uniformly adopted, the duration of the copyright shall be regulated by the

law of the country where protection is claimed and not exceed the term granted in the country of origin, and this is also provided in the case of photographic works, posthumous, anonymous, and pseudonymous works. (Art. 7.)

Miscellaneous provisions.

The Berlin convention provides in terms that by published works must be understood works which have been issued, and that the representation of a dramatic or dramatico-musical work, the performance of a musical work, the exhibition of a work of art, and the construction of a work of architecture do not constitute publication. (Art. 4.)

To each government is left the right by legislation or domestic police to supervise the circulation, representation, or exhibition of every work (article 17); to enact more favorable copyright protection than the convention secures (article 19); or to enter into special treaties with other countries, and to maintain treaties already in force, provided these confer more extended rights than those accorded by the union. (Art. 20.)

The Berlin convention is to apply to all works which, at the time it goes into effect, have not fallen into the public domain of their country of origin because of the expiration of the term of protection, but such works will not be protected anew. (Art. 18.)

In accordance with article 28 of the convention, it is to be ratified, and the ratifications exchanged at Berlin, not later than the 1st of July, 1910.

The full official French text of the Berlin convention follows. To this has been prefixed, for convenience in use, a complete English translation. For purposes of comparison, the English texts of the Berne convention of 1886 and the Paris act of 1896 are added as an appendix.

A complete statement of the international copyright relations of the United States, together with full texts of all the copyright treaties of the United States, are printed as Circulars Nos. 38 and 39, and can be obtained by anyone interested upon application to the Copyright Office.

THORVALD SOLBERG, *Register of Copyrights,*
Delegate of the United States to the Berlin Conference to
Revise the Berne International Copyright Convention.

CONVENTION CREATING AN INTERNATIONAL UNION FOR THE PROTECTION OF LITERARY AND ARTISTIC WORKS, SIGNED AT BERLIN, NOVEMBER 13, 1908.

ARTICLE 1.

Union to protect literary and artistic works.

The contracting countries are constituted into a Union for the protection of the rights of authors in their literary and artistic works.

ARTICLE 2.

Definition of "literary and artistic works."

The expression "literary and artistic works" includes all productions in the literary, scientific or artistic domain, whatever the mode or form of reproduction, such as: books, pamphlets and other writings; dramatic or dramatico-musical works; choreographic works and pantomimes, the stage directions ("*mise en scène*") of which are fixed in writing or otherwise; musical compositions with or without words; drawings, paintings; works of architecture and sculpture; engravings and lithographs; illustrations; geographical charts; plans, sketches and plastic works relating to geography, topography, architecture, or the sciences.

Translations, arrangements, and adaptations protected.

Translations, adaptations, arrangements of music and other reproductions transformed from a literary or artistic work, as well as compilations from different works, are protected as original works without prejudice to the rights of the author of the original work.

The contracting countries are pledged to secure protection in the case of the works mentioned above.

Works of art applied to industry.

Works of art applied to industry are protected so far as the domestic legislation of each country allows.

ARTICLE 3.

The present Convention applies to photographic works and to works obtained by any process analogous to photography. The contracting countries are pledged to guarantee protection to such works.

Photographic works to be protected.

ARTICLE 4.

Authors within the jurisdiction of one of the countries of the Union enjoy for their works, whether unpublished or published for the first time in one of the countries of the Union, such rights, in the countries other than the country of origin of the work, as the respective laws now accord or shall hereafter accord to natives, as well as the rights specially accorded by the present Convention.

Authors to enjoy in countries of the Union the rights granted to natives.

The enjoyment and the exercise of such rights are not subject to any formality; such enjoyment and such exercise are independent of the existence of protection in the country of origin of the work. Consequently, apart from the stipulations of the present Convention, the extent of the protection, as well as the means of redress guaranteed to the author to safeguard his rights, are regulated exclusively according to the legislation of the country where the protection is claimed.

No formalities required.

The following is considered as the country of origin of the work: for unpublished works, the country to which the author belongs; for published works, the country of first publication, and for works published simul-

Definition of country of origin.

taneously in several countries of the Union, the country among them whose legislation grants the shortest term of protection. For works published simultaneously in a country outside of the Union and in a country within the Union, it is the latter country which is exclusively considered as the country of origin.

Published works.

By published works (*"œuvres publiées"*) must be understood, according to the present Convention, works which have been issued (*"œuvres éditées"*). The representation of a dramatic or dramatico-musical work, the performance of a musical work, the exhibition of a work of art and the construction of a work of architecture do not constitute publication.

ARTICLE 5.

Authors of countries of the Union have same rights as natives of other countries.

Authors within the jurisdiction of one of the countries of the Union who publish their works for the first time in another country of the Union, have in this latter country the same rights as national authors.

ARTICLE 6.

Authors not belonging to countries of the Union also protected if they first publish in a Union country.

Authors not within the jurisdiction of any one of the countries of the Union, who publish for the first time their works in one of these countries, enjoy in that country the same rights as national authors, and in the other countries of the Union the rights accorded by the present Convention.

ARTICLE 7.

Term of protection: Life and 50 years.

The term of protection granted by the present Convention comprises the life of the author and fifty years after his death.

If not adopted; Laws of country to govern term.

In case this term, however, should not be adopted uniformly by all the countries of the Union, the duration of the protection shall be regulated by the law of the country where protection is claimed, and can not exceed the term granted in the country of origin of the work. The contracting

countries will consequently be required to apply the provision of the preceding paragraph only to the extent to which it agrees with their domestic law.

For photographic works and works obtained by a process analogous to photography, for posthumous works, for anonymous or pseudonymous works, the term of protection is regulated by the law of the country where protection is claimed, but this term may not exceed the term fixed in the country of origin of the work.

Term for photographic, posthumous, anonymous or pseudonymous works.

ARTICLE 8.

Authors of unpublished works within the jurisdiction of one of the countries of the Union, and authors of works published for the first time in one of these countries, enjoy in the other countries of the Union during the whole term of the right in the original work the exclusive right to make or to authorize the translation of their works.

Exclusive right of translation for entire term.

ARTICLE 9.

Serial stories (*"romans-feuilletons"*), novels and all other works, whether literary, scientific or artistic, whatever may be their subject, published in newspapers or periodicals of one of the countries of the Union, may not be reproduced in the other countries without the consent of the authors.

Serial novels protected when published in newspapers or periodicals.

With the exception of serial stories and of novels (*"romans-feuilletons et des nouvelles"*) any newspaper article may be reproduced by another newspaper if reproduction has not been expressly forbidden. The source, however, must be indicated. The confirmation of this obligation shall be determined by the legislation of the country where protection is claimed.

Reproduction of newspaper articles.

The protection of the present Convention does not apply to news of the day or to miscellaneous news having the character merely of press information.

News items not protected.

ARTICLE 10.

Extracts from literary or artistic works for educational publications.

As concerns the right of borrowing lawfully from literary or artistic works for use in publications intended for instruction or having a scientific character, or for chrestomathies, the provisions of the legislation of the countries of the Union and of the special treaties existing or to be concluded between them shall govern.

ARTICLE 11.

Representation of dramatic or dramatico-musical works.

The stipulations of the present Convention apply to the public representation of dramatic or dramatico-musical works and to the public performance of musical works, whether these works are published or not.

Representation of translations of dramatic works.

Authors of dramatic or dramatico-musical works are protected, during the term of their copyright in the original work, against the unauthorized public representation of a translation of their works.

Notice of reservation of performance not required.

In order to enjoy the protection of this article, authors, in publishing their works, are not obliged to prohibit the public representation or public performance of them.

ARTICLE 12.

Adaptations, etc., considered as infringements.

Among the unlawful reproductions to which the present Convention applies are specially included indirect, unauthorized appropriations of a literary or artistic work, such as adaptations, arrangements of music, transformations of a romance or novel or of a poem into a theatrical piece and vice-versâ, etc., when they are only the reproduction of such work in the same form or in another form with non-essential changes, additions or abridgments and without presenting the character of a new, original work.

ARTICLE 13.

Adaptation of musical works to mechanical instruments.

Authors of musical works have the exclusive right to authorize: (1) the adaptation of these works to instruments serving to reproduce them mechanically; (2) the public perform-

ance of the same works by means of these instruments.

The limitations and conditions relative to the application of this article shall be determined by the domestic legislation of each country in its own case; but all limitations and conditions of this nature shall have an effect strictly limited to the country which shall have adopted them.

Each country to regulate for itself the manner in which Convention shall apply.

The provisions of paragraph 1 have no retroactive effect, and therefore are not applicable in a country of the Union to works which, in that country, shall have been lawfully adapted to mechanical instruments before the going into force of the present Convention.

Not retroactive.

The adaptations made by virtue of paragraphs 2 and 3 of this article and imported without the authorization of the parties interested into a country where they are not lawful, may be seized there.

Importation of mechanical musical appliances prohibited.

ARTICLE 14.

Authors of literary, scientific or artistic works have the exclusive right to authorize the reproduction and the public representation of their works by means of the cinematograph.

Reproduction by cinematograph.

Cinematographic productions are protected as literary or artistic works when by the arrangement of the stage effects or by the combination of incidents represented, the author shall have given to the work a personal and original character.

Cinematographic productions protected.

Without prejudice to the rights of the author in the original work, the reproduction by the cinematograph of a literary, scientific or artistic work is protected as an original work.

Cinematographs copyrightable.

The preceding provisions apply to the reproduction or production obtained by any other process analogous to that of the cinematograph.

Also any analogous production.

ARTICLE 15.

In order that the authors of the works protected by the present Convention may be considered as such, until proof to the contrary, and ad-

Author's name indicated on work sufficient proof of authorship.

mitted in consequence before the courts of the various countries of the Union to proceed against infringers, it is sufficient that the author's name be indicated upon the work in the usual manner.

Publisher of anonymous or pseudonymous works considered as representative of author.

For anonymous or pseudonymous works, the publisher whose name is indicated upon the work is entitled to protect the rights of the author. He is without other proofs considered the legal representative of the anonymous or pseudonymous author.

ARTICLE 16.

Seizure of pirated copies.

All infringing works may be seized by the competent authorities of the countries of the Union where the original work has a right to legal protection.

Seizure may also be made in these countries of reproductions which come from a country where the copyright in the work has terminated, or where the work has not been protected.

Seizure to be made according to the laws of each country.

The seizure takes place in conformity with the domestic legislation of each country.

ARTICLE 17.

Each government to exercise supervision as to circulation, representation or exhibition of works.

The provisions of the present Convention may not prejudice in any way the right which belongs to the Government of each of the countries of the Union to permit, to supervise, or to forbid, by means of legislation or of domestic police, the circulation, the representation or the exhibition of every work or production in regard to which competent authority may have to exercise this right.

ARTICLE 18.

Convention to apply to all works not in public domain at the time of its going into force.

The present Convention applies to all works which, at the time it goes into effect, have not fallen into the public domain of their country of origin because of the expiration of the term of protection.

But if a work by reason of the expiration of the term of protection which was previously secured for it has fallen into the public domain of

the country where protection is claimed, such work will not be protected anew.

This principle will be applied in accordance with the stipulations to that effect contained in the special Conventions either existing or to be concluded between countries of the Union, and in default of such stipulations, its application will be regulated by each country in its own case.

Special Conventions and domestic legislation may govern.

The preceding provisions apply equally in the case of new accessions to the Union and where the term of protection would be extended by the application of Article 7.

Provisions of Convention to apply to new accessions.

ARTICLE 19.

The provisions of the present Convention do not prevent a claim for the application of more favorable provisions which may be enacted by the legislation of a country of the Union in favor of foreigners in general.

More extensive rights may be granted by domestic legislation.

ARTICLE 20.

The governments of the countries of the Union reserve the right to make between themselves special treaties, when these treaties would confer upon authors more extended rights than those accorded by the Union, or when they contain other stipulations not conflicting with the present Convention. The provisions of existing treaties which answer the aforesaid conditions remain in force.

More extensive right may be secured by special treaties.

ARTICLE 21.

The international office instituted under the name of "Bureau of the International Union for the Protection of Literary and Artistic Works" ("Bureau de l'Union internationale pour la protection des œuvres littéraires et artistiques") is maintained.

Bureau of the International Union.

This Bureau is placed under the high authority of the Government of the Swiss Confederation, which controls its organization and supervises its working.

Under control of Switzerland.

The official language of the Bureau is the French language.

Language of Bureau to be French.

ARTICLE 22.

Duties of International Bureau.

The International Bureau brings together, arranges and publishes information of every kind relating to the protection of the rights of authors in their literary and artistic works. It studies questions of mutual utility interesting to the Union, and edits, with the aid of documents placed at its disposal by the various administrations, a periodical in the French language, treating questions concerning the purpose of the Union. The governments of the countries of the Union reserve the right to authorize the Bureau by common accord to publish an edition in one or more other languages, in case experience demonstrates the need.

Will furnish information as to copyright.

The International Bureau must hold itself at all times at the disposal of members of the Union to furnish them, in relation to questions concerning the protection of literary and artistic works, the special information of which they have need.

Annual report of Director of International Bureau.

The Director of the International Bureau makes an annual report on his administration, which is communicated to all the members of the Union.

ARTICLE 23.

Expenses of the International Bureau to be shared by contracting states.

The expenses of the Bureau of the International Union are shared in common by the contracting countries. Until a new decision, they may not exceed sixty thousand francs per year. This sum may be increased when needful by the simple decision of one of the Conferences provided for in Article 24.

Method of sharing expenses.

To determine the part of this sum total of expenses to be paid by each of the countries, the contracting countries and those which later adhere to the Union are divided into six classes each contributing in proportion to a certain number of units, to wit:

1st class	25 units
2d class	20 units
3d class	15 units
4th class	10 units
5th class	5 units
6th class	3 units

These coefficients are multiplied by the number of countries of each class, and the sum of the products thus obtained furnishes the number of units by which the total expense is to be divided. The quotient gives the amount of the unit of expense.

Each country shall declare, at the time of its accession, in which of the above-mentioned classes it desires to be placed.

The Swiss Administration prepares the budget of the Bureau and superintends its expenditures, makes necessary advances and draws up the annual account, which shall be communicated to all the other administrations.

Swiss Administration to prepare the budget of the International Bureau, etc.

ARTICLE 24.

The present Convention may be subjected to revision with a view to the introduction of amendments calculated to perfect the system of the Union.

Revisions of Convention.

Questions of this nature, as well as those which from other points of view pertain to the development of the Union, are considered in the Conferences which will take place successively in the countries of the Union between the delegates of the said countries. The administration of the country where a Conference is to be held will, with the cooperation of the International Bureau, prepare the business of the same. The Director of the Bureau will attend the meetings of the Conferences and take part in the discussions without a deliberative voice.

To take place successively in the countries of the Union.

No change in the present Convention is valid for the Union except on condition of the unanimous consent of the countries which compose it.

Changes require unanimous consent.

ARTICLE 25.

The States outside of the Union which assure legal protection of the rights which are the object of the present Convention, may accede to it upon their request.

Accession of other countries.

This accession shall be made known in writing to the Government of the Swiss Confederation and by the latter to all the others.

To be made known by Switzerland.

May substitute provisions of previous conventions.

Such accession shall imply full adhesion to all the clauses and admission to all the advantages stipulated in the present Convention. It may, however, indicate such provisions of the Convention of September 9, 1886, or of the Additional Act of May 4, 1896, as it may be judged necessary to substitute provisionally, at least, for the corresponding provisions of the present Convention.

ARTICLE 26.

Accession for colonies or foreign possessions.

The contracting countries have the right to accede at any time to the present Convention for their colonies or foreign possessions.

They may, for that purpose, either make a general declaration by which all their colonies or possessions are included in the accession, or name expressly those which are included therein, or confine themselves to indicating those which are excluded from it.

This declaration shall be made known in writing to the Government of the Swiss Confederation, and by the latter to all the others.

ARTICLE 27.

Present Convention to replace Berne Convention and Additional Articles.

The present Convention shall replace, in the relations between the contracting States, the Convention of Berne of September 9, 1886, including the Additional Article and the Final Protocol of the same day, as well as the Additional Act and the Interpretative Declaration of May 4, 1896. The conventional acts above-mentioned shall remain in force in the relations with the States which do not ratify the present Convention.

But Berne Convention remains in force between countries not signatory to present Convention.

Signatory States may declare themselves bound by former Conventions upon certain points.

The States signatory to the present Convention may, at the time of the exchange of ratifications, declare that they intend, upon such or such point, still to remain bound by the provisions of the Conventions to which they have previously subscribed.

ARTICLE 28.

Convention to be ratified not later than July 1, 1910.

The present Convention shall be ratified, and the ratifications shall be exchanged at Berlin, not later than the first of July, 1910.

Each contracting party shall send, for the exchange of ratifications, a single instrument, which shall be deposited, with those of the other countries, in the archives of the Government of the Swiss Confederation. Each party shall receive in return a copy of the *procès-verbal* of the exchange of ratifications, signed by the Plenipotentiaries who shall have taken part therein.

Instrument to be filed with Swiss Government.

ARTICLE 29.

The present Convention shall be put into execution three months after the exchange of the ratifications and shall remain in force for an indefinite time, until the expiration of one year from the day when denunciation of it shall have been made.

Convention to take effect three months after exchange of ratifications.

This denunciation shall be addressed to the Government of the Swiss Confederation. It shall be effective only as regards the country which shall have made it, the Convention remaining in force for the other countries of the Union.

Withdrawal from the Convention.

ARTICLE 30.

The States which introduce into their legislation the term of protection of fifty years* provided for by Article 7, paragraph 1, of the present Convention, shall make it known to the Government of the Swiss Confederation by a written notification which shall be communicated at once by that Government to all the other countries of the Union.

Adoption of term of life and 50 years to be notified.

It shall be the same for such States as shall renounce any reservations made by them in virtue of Articles 25, 26, and 27.

Notice shall be given of renunciation of any reservations.

In testimony of which, the respective Plenipotentiaries have signed the present Convention and have attached thereto their seals.

Signatures.

Done at Berlin, the thirteenth of November, one thousand nine hundred eight, in a single copy, which shall be deposited in the archives of the Government of the Swiss Confederation, and of which copies, properly certified, shall be sent through diplomatic channels to the contracting countries.

Date of signing, November 13, 1908.

*Article 7 provides for a general term of protection for life and fifty years.

CONVENTION DE BERNE REVISÉE POUR LA PROTECTION DES ŒUVRES LITTÉRAIRES ET ARTISTIQUES DU 13 NOVEMBRE 1908.

ARTICLE 1. Les Pays contractants sont constitués à l'état d'Union pour la protection des droits des auteurs sur leurs œuvres littéraires et artistiques.

ART. 2. L'expression "œuvres littéraires et artistiques" comprend toute production du domaine littéraire, scientifique ou artistique, quel qu'en soit le mode ou la forme de reproduction, telle que: les livres, brochures, et autres écrits; les œuvres dramatiques ou dramatico-musicales, les œuvres chorégraphiques et les pantomimes, dont la mise en scène est fixée par écrit ou autrement; les compositions musicales avec ou sans paroles; les œuvres de dessin, de peinture, d'architecture, de sculpture, de gravure et de lithographie; les illustrations, les cartes géographiques; les plans, croquis et ouvrages plastiques, relatifs à la géographie, à la topographie, à l'architecture ou aux sciences.

Sont protégés comme des ouvrages originaux, sans préjudice des droits de l'auteur de l'œuvre originale, les traductions, adaptations, arrangements de musique et autres reproductions transformées d'une œuvre littéraire ou artistique, ainsi que les recueils de différentes œuvres.

Les Pays contractants sont tenus d'assurer la protection des œuvres mentionnées ci-dessus.

Les œuvres d'art appliqué à l'industrie sont protégées autant que permet de le faire la législation intérieure de chaque pays.

ART. 3. La présente Convention s'applique aux œuvres photographiques et aux œuvres obtenues par un procédé analogue à la photographie. Les Pays contractants sont tenus d'en assurer la protection.

ART. 4. Les auteurs ressortissant à l'un des pays de l'Union jouissent, dans les pays autres que le pays d'origine de l'œuvre, pour leurs œuvres, soit non publiées, soit publiées pour la première fois dans un pays de l'Union, des droits que les lois respectives accordent actuellement ou

accorderont par la suite aux nationaux, ainsi que des droits spécialement accordés par la présente Convention.

La jouissance et l'exercice de ces droits ne sont subordonnés à aucune formalité; cette jouissance et cet exercice sont indépendants de l'existence de la protection dans le pays d'origine de l'œuvre. Par suite, en dehors des stipulations de la présente Convention, l'étendue de la protection ainsi que les moyens de recours garantis à l'auteur pour sauvegarder ses droits se règlent exclusivement d'après la législation du pays où la protection est réclamée.

Est considéré comme pays d'origine de l'œuvre: pour les œuvres non publiées, celui auquel appartient l'auteur; pour les œuvres publiées, celui de la première publication, et pour les œuvres publiées simultanément dans plusieurs pays de l'Union, celui d'entre eux dont la législation accorde la durée de protection la plus courte. Pour les œuvres publiées simultanément dans un pays étranger à l'Union et dans un pays de l'Union, c'est ce dernier pays qui est exclusivement considéré comme pays d'origine.

Par œuvres publiées, il faut, dans le sens de la présente Convention, entendre les œuvres éditées. La représentation d'une œuvre dramatique ou dramatico-musicale, l'exécution d'une œuvre musicale, l'exposition d'une œuvre d'art et la construction d'une œuvre d'architecture ne constituent pas une publication.

ART. 5. Les ressortissants de l'un des pays de l'Union, qui publient pour la première fois leurs œuvres dans un autre pays de l'Union, ont, dans ce dernier pays, les mêmes droits que les auteurs nationaux.

ART. 6. Les auteurs ne ressortissant pas à l'un des pays de l'Union, qui publient pour la première fois leurs œuvres dans l'un de ces pays, jouissent, dans ce pays, des mêmes droits que les auteurs nationaux, et dans les autres pays de l'Union, des droits accordés par la présente Convention.

ART. 7. La durée de la protection accordée par la présente Convention comprend la vie de l'auteur et cinquante ans après sa mort.

Toutefois, dans le cas où cette durée ne serait pas uniformément adoptée par tous les pays de l'Union, la durée sera réglée par la loi du pays où la protection sera réclamée et elle ne pourra excéder la durée fixée dans le pays d'origine de l'œuvre. Les Pays contractants ne seront, en conséquence, tenus d'appliquer la disposition de l'alinéa précédent que dans la mesure où elle se concilie avec leur droit interne.

Pour les œuvres photographiques et les œuvres obtenues par un procédé analogue à la photographie, pour les œuvres posthumes, pour les œuvres anonymes ou pseudonymes, la durée de la protection est réglée par la loi du pays où la protection est réclamée, sans que cette durée puisse excéder la durée fixée dans le pays d'origine de l'œuvre.

ART. 8. Les auteurs d'œuvres non publiées, ressortissant à l'un des pays de l'Union, et les auteurs d'œuvres publiées pour la première fois dans un de ces pays jouissent, dans les autres pays de l'Union, pendant toute la durée du droit sur l'œuvre originale, du droit exclusif de faire ou d'autoriser la traduction de leurs œuvres.

ART. 9. Les romans-feuilletons, les nouvelles et toutes autres œuvres, soit littéraires, soit scientifiques, soit artistiques, quel qu'en soit l'objet, publiés dans les journaux ou recueils périodiques d'un des pays de l'Union, ne peuvent être reproduits dans les autres pays sans le consentement des auteurs.

A l'exclusion des romans-feuilletons et des nouvelles, tout article de journal peut être reproduit par un autre journal, si la reproduction n'en est pas expressément interdite. Toutefois, la source doit être indiquée; la sanction de cette obligation est déterminée par la législation du pays où la protection est réclamée.

La protection de la présente Convention ne s'applique pas aux nouvelles du jour ou aux faits divers qui ont le caractère de simples informations de presse.

ART. 10. En ce qui concerne la faculté de faire licitement des emprunts à des œuvres littéraires ou artistiques pour des publications destinées à l'enseignement ou ayant un caractère scientifique, ou pour des chrestomathies, est réservé l'effet de la législation des pays de l'Union et des arrangements particuliers existants ou à conclure entre eux.

ART. 11. Les stipulations de la présente Convention s'appliquent à la représentation publique des œuvres dramatiques ou dramatico-musicales, et à l'exécution publique des œuvres musicales, que ces œuvres soient publiées ou non.

Les auteurs d'œuvres dramatiques ou dramatico-musicales sont, pendant la durée de leur droit sur l'œuvre originale, protégés contre la représentation publique non autorisée de la traduction de leurs ouvrages.

Pour jouir de la protection du présent article, les auteurs, en publiant leurs œuvres, ne sont pas tenus d'en interdire la représentation ou l'exécution publique.

ART. 12. Sont spécialement comprises parmi les reproductions illicites auxquelles s'applique la présente Convention, les appropriations indirectes non autorisées d'un ouvrage littéraire ou artistique, telles que adaptations, arrangements de musique, transformations d'un roman, d'une nouvelle ou d'une poésie en pièce de théâtre et réciproquement, etc., lorsqu'elles ne sont que la reproduction de cet ouvrage, dans la même forme ou sous une autre forme, avec des changements, additions ou retranchements, non essentiels, et sans présenter le caractère d'une nouvelle œuvre originale.

ART. 13. Les auteurs d'œuvres musicales ont le droit exclusif d'autoriser: 1° l'adaptation de ces œuvres à des instruments servant à les reproduire mécaniquement; 2° l'exécution publique des mêmes œuvres au moyen de ces instruments.

Des réserves et conditions relatives à l'application de cet article pourront être déterminées par la législation intérieure de chaque pays, en ce qui le concerne; mais toutes réserves et conditions de cette nature n'auront qu'un effet strictement limité au pays qui les aurait établies.

La disposition de l'alinéa 1^{er} n'a pas d'effet rétroactif et, par suite, n'est pas applicable, dans un pays de l'Union, aux œuvres qui, dans ce pays, auront été adaptées licitement aux instruments mécaniques avant la mise en vigueur de la présente Convention.

Les adaptations faites en vertu des alinéas 2 et 3 du présent article et importées, sans autorisation des parties intéressées, dans un pays où elles ne seraient pas licites, pourront y être saisies.

ART. 14. Les auteurs d'œuvres littéraires, scientifiques ou artistiques ont le droit exclusif d'autoriser la reproduction et la représentation publique de leurs œuvres par la cinématographie.

Sont protégées comme œuvres littéraires ou artistiques les productions cinématographiques

lorsque, par les dispositifs de la mise en scène ou les combinaisons des incidents représentés, l'auteur aura donné à l'œuvre un caractère personnel et original.

Sans préjudice des droits de l'auteur de l'œuvre originale, la reproduction par la cinématographie d'une œuvre littéraire, scientifique ou artistique est protégée comme une œuvre originale.

Les dispositions qui précèdent s'appliquent à la reproduction ou production obtenue par tout autre procédé analogue à la cinématographie.

ART. 15. Pour que les auteurs des ouvrages protégés par la présente Convention soient, jusqu'à preuve contraire, considérés comme tels et admis, en conséquence, devant les tribunaux des divers pays de l'Union, à exercer des poursuites contre les contrefacteurs, il suffit que leur nom soit indiqué sur l'ouvrage en la manière usitée.

Pour les œuvres anonymes ou pseudonymes, l'éditeur dont le nom est indiqué sur l'ouvrage est fondé à sauvegarder les droits appartenant à l'auteur. Il est, sans auteurs preuves, réputé ayant cause de l'auteur anonyme ou pseudonyme.

ART. 16. Toute œuvre contrefaite peut être saisie par les autorités compétentes des pays de l'Union où l'œuvre originale a droit à la protection légale.

Dans ces pays, la saisie peut aussi s'appliquer aux reproductions provenant d'un pays où l'œuvre n'est pas protégée ou a cessé de l'être.

La saisie a lieu conformément à la législation intérieure de chaque pays.

ART. 17. Les dispositions de la présente Convention ne peuvent porter préjudice, en quoi que ce soit, au droit qui appartient au Gouvernement de chacun des pays de l'Union de permettre, de surveiller, d'interdire, par des mesures de législation ou de police intérieure, la circulation, la représentation, l'exposition de tout ouvrage ou production à l'égard desquels l'autorité compétente aurait à exercer ce droit.

ART. 18. La présente Convention s'applique à toutes les œuvres qui, au moment de son entrée en vigueur, ne sont pas encore tombées dans le domaine public de leur pays d'origine par l'expiration de la durée de la protection.

Cependant, si une œuvre, par l'expiration de la durée de protection qui lui était antérieurement reconnue, est tombée dans le domaine public du pays où la protection est réclamée, cette œuvre n'y sera pas protégée à nouveau.

L'application de ce principe aura lieu suivant les stipulations contenues dans les conventions

spéciales existantes ou à conclure à cet effet entre pays de l'Union. A défaut de semblables stipulations, les pays respectifs régleront, chacun pour ce qui le concerne, les modalités relatives à cette application.

Les dispositions qui précèdent s'appliquent également en cas de nouvelles accessions à l'Union et dans le cas où la durée de la protection serait étendue par application de l'article 7.

ART. 19. Les dispositions de la présente Convention n'empêchent pas de revendiquer l'application de dispositions plus larges qui seraient édictées par la législation d'un pays de l'Union en faveur des étrangers en général.

ART. 20. Les Gouvernements des pays de l'Union se réservent le droit de prendre entre eux des arrangements particuliers, en tant que ces arrangements confèreraient aux auteurs des droits plus étendus que ceux accordés par l'Union, ou qu'ils renfermeraient d'autres stipulations non contraires à la présente Convention. Les dispositions des arrangements existants qui répondent aux conditions précitées restent applicables.

ART. 21. Est maintenu l'office international institué sous le nom de "Bureau de l'Union internationale pour la protection des œuvres littéraires et artistiques".

Ce Bureau est placé sous la haute autorité du Gouvernement de la Confédération Suisse, qui en règle l'organisation et en surveille le fonctionnement.

La langue officielle du Bureau est la langue française.

ART. 22. Le Bureau international centralise les renseignements de toute nature relatifs à la protection des droits des auteurs sur leurs œuvres littéraires et artistiques. Il les coordonne et les publie. Il procède aux études d'utilité commune intéressant l'Union et rédige, à l'aide des documents qui sont mis à sa disposition par les diverses Administrations, une feuille périodique, en langue française, sur les questions concernant l'objet de l'Union. Les Gouvernements des pays de l'Union se réservent d'autoriser, d'un commun accord, le Bureau à publier une édition dans une ou plusieurs autres langues, pour le cas où l'expérience en aurait démontré le besoin.

Le Bureau international doit se tenir en tout temps à la disposition des membres de l'Union pour leur fournir, sur les questions relatives à la protection des œuvres littéraires et artistiques, les

renseignements spéciaux dont ils pourraient avoir besoin.

Le Directeur du Bureau international fait sur sa gestion un rapport annuel qui est communiqué à tous les membres de l'Union.

ART. 23. Les dépenses du Bureau de l'Union internationale sont supportées en commun par les Pays contractants. Jusqu'à nouvelle décision, elles ne pourront pas dépasser la somme de soixante mille francs par année. Cette somme pourra être augmentée au besoin par simple décision d'une des Conférences prévues à l'article 24.

Pour déterminer la part contributive de chacun des pays dans cette somme totale des frais, les Pays contractants et ceux qui adhéreront ultérieurement à l'Union sont divisés en six classes contribuant chacune dans la proportion d'un certain nombre d'unités, savoir :

1 ^{re} classe.....	25 unités
2 ^{me} classe.....	20 unités
3 ^{me} classe.....	15 unités
4 ^{me} classe.....	10 unités
5 ^{me} classe.....	5 unités
6 ^{me} classe.....	3 unités

Ces coefficients sont multipliés par le nombre des pays de chaque classe, et la somme des produits ainsi obtenus fournit le nombre d'unités par lequel la dépense totale doit être divisée. Le quotient donne le montant de l'unité de dépense.

Chaque pays déclarera, au moment de son accession, dans laquelle des susdites classes il demande à être rangé.

L'Administration suisse prépare le budget du Bureau et en surveille les dépenses, fait les avances nécessaires et établit le compte annuel qui sera communiqué à toutes les autres Administrations.

ART. 24. La présente Convention peut être soumise à des revisions en vue d'y introduire les améliorations de nature à perfectionner le système de l'Union.

Les questions de cette nature, ainsi que celles qui intéressent à d'autres points de vue le développement de l'Union, sont traitées dans des Conférences qui auront lieu successivement dans les pays de l'Union entre les délégués desdits pays. L'Administration du pays où doit siéger une Conférence prépare, avec le concours du Bureau international, les travaux de celle-ci. Le Directeur du Bureau assiste aux séances des Conférences et prend part aux discussions sans voix délibérative.

Aucun changement à la présente Convention n'est valable pour l'Union que moyennant l'assentiment unanime des pays qui la composent.

ART. 25. Les États étrangers à l'Union et qui assurent la protection légale des droits faisant l'objet de la présente Convention, peuvent y accéder sur leur demande.

Cette accession sera notifiée par écrit au Gouvernement de la Confédération Suisse, et par celui-ci à tous les autres.

Elle emportera, de plein droit, adhésion à toutes les clauses et admission à tous les avantages stipulés dans la présente Convention. Toutefois, elle pourra contenir l'indication des dispositions de la Convention du 9 septembre 1886 ou de l'Acte additionnel du 4 mai 1896 qu'ils jugeraient nécessaire de substituer, provisoirement au moins, aux dispositions correspondantes de la présente Convention.

ART. 26. Les Pays contractants ont le droit d'accéder en tout temps à la présente Convention pour leurs colonies ou possessions étrangères.

Ils peuvent, à cet effet, soit faire une déclaration générale par laquelle toutes leurs colonies ou possessions sont comprises dans l'accession, soit nommer expressément celles qui y sont comprises, soit se borner à indiquer celles qui en sont exclues.

Cette déclaration sera notifiée par écrit au Gouvernement de la Confédération Suisse, et par celui-ci à tous les autres.

ART. 27. La présente Convention remplacera, dans les rapports entre les États contractants, la Convention de Berne du 9 septembre 1886, y compris l'Article additionnel et le Protocole de clôture du même jour, ainsi que l'Acte additionnel et la Déclaration interprétative du 4 mai 1896. Les actes conventionnels précités resteront en vigueur dans les rapports avec les États qui ne ratifieraient pas la présente Convention.

Les États signataires de la présente Convention pourront, lors de l'échange des ratifications, déclarer qu'ils entendent, sur tel ou tel point, rester encore liés par les dispositions des Conventions auxquelles ils ont souscrit antérieurement.

ART. 28. La présente Convention sera ratifiée, et les ratifications en seront échangées à Berlin au plus tard le 1^{er} juillet 1910.

Chaque Partie contractante remettra, pour l'échange des ratifications, un seul instrument, qui sera déposé, avec ceux des autres pays, aux archives du Gouvernement de la Confédération

Suisse. Chaque Partie recevra en retour un exemplaire du procès-verbal d'échange des ratifications, signé par les Plénipotentiaires qui y auront pris part.

Arr. 29. La présente Convention sera mise à exécution trois mois après l'échange des ratifications et demeurera en vigueur pendant un temps indéterminé, jusqu'à l'expiration d'une année à partir du jour où la dénonciation en aura été faite.

Cette dénonciation sera adressée au Gouvernement de la Confédération Suisse. Elle ne produira son effet qu'à l'égard du pays qui l'aura faite, la Convention restant exécutoire pour les autres pays de l'Union.

Arr. 30. Les États qui introduiront dans leur législation la durée de protection de cinquante ans prévue par l'article 7, alinéa 1^{er}, de la présente

Convention, le feront connaître au Gouvernement de la Confédération Suisse par une notification écrite qui sera communiquée aussitôt par ce Gouvernement à tous les autres États de l'Union.

Il en sera de même pour les États qui renonceraient aux réserves faites par eux en vertu des articles 25, 26 et 27.

En foi de quoi, les Plénipotentiaires respectifs ont signé la présente Convention et y ont apposé leurs cachets.

Fait à Berlin, le 13 novembre mil neuf cent huit, en un seul exemplaire, qui sera déposé dans les archives du Gouvernement de la Confédération Suisse et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Pays contractants.

Pour l'Allemagne :

(L. S.) DR. K. VON STUDDT.
(L. S.) VON KOERNER.
(L. S.) DUNGS.
(L. S.) GOEBEL VON HARRANT.
(L. S.) ROBOLSKI.
(L. S.) JOSEF KOHLER.
(L. S.) OSTERRIETH.

Pour la Belgique :

(L. S.) C^{te} DELLA FAILLE DE LEVERGHEM.
(L. S.) JULES DE BORCHGRAVE.
(L. S.) WAUWERMANS.

Pour le Danemark :

(L. S.) J. HEGERMANN LINDENCRONE.

Pour l'Espagne :

(L. S.) LUIS POLO DE BERNABÉ.
(L. S.) EUGENIO FERRAZ.

Pour la France :

(L. S.) JULES CAMBON.
(L. S.) E. LAVISSE.
(L. S.) PAUL HERVIEU.
(L. S.) L. RENAULT.
(L. S.) GAVARRY.
(L. S.) G. BRETON.
(L. S.) GEORGES LECOMTE.

Pour la Grande-Bretagne :

(L. S.) H. G. BERGNE.
(L. S.) GEORGE R. ASKWITH.
(L. S.) J. DE SALIS.

Pour l'Italie:

- (L. S.) PANSA.
- (L. S.) LUIGI ROUX.
- (L. S.) SAMUELE OTTOLENGHI.
- (L. S.) EMILIO VENEZIAN.
- (L. S.) Avv. AUGUSTO FERRARI.

Pour le Japon:

- (L. S.) MIZUNO RENTARO.
- (L. S.) HORIGUCHI KUMAICHI.

Pour la République de Libéria:

- (L. S.) VON KOERNER.

Pour le Luxembourg:

- (L. S.) C^{TE}. DE VILLERS.

Pour Monaco:

- (L. S.) BON DE ROLLAND.

Pour la Norvège:

- (L. S.) KLAUS HOEL.

Pour la Suède:

- (L. S.) TAUBE.
- (L. S.) P. M. AF UGGLAS.

Pour la Suisse:

- (L. S.) ALFRED VON CLAPARÈDE.
- (L. S.) W. KRAFT.

Pour la Tunisie:

- (L. S.) JEAN GOUT.

APPENDIX.

I.

TEXT OF THE CONVENTION CREATING THE INTERNATIONAL COPYRIGHT UNION, SEPTEMBER 5, 1887, TOGETHER WITH ADDITIONAL ARTICLES, SIGNED AT PARIS, MAY 4, 1896.

PRELIMINARY REMARKS.

The text of the Berne Convention creating the International Union for the Protection of Literary and Artistic Works, together with the additional, supplementary stipulations, is here reprinted from the official texts in response to inquiries for an English edition of these documents.

The treaty was signed at Berne on September 9, 1886, by the plenipotentiaries of ten nations, and ratifications were exchanged at Berne, on September 5, 1887, the *procès-verbal* being signed by the representatives of Great Britain, Germany, Belgium, Spain, France, Haïti, Italy, Switzerland, and Tunis; Liberia was not included, although the representative of that State had signed the Convention on September 9, 1886. The signature upon the part of France included Algiers and the other French colonies; upon the part of Spain, all Spanish colonies; and upon the part of Great Britain, India, Canada, Newfoundland, the Cape, Natal, New South Wales, Victoria, Queensland, Tasmania, South Australia, Western Australia, and New Zealand.

The following countries have joined the International Copyright Union subsequent to the date of its formation: Luxembourg, on June 20, 1888; Monaco, on May 30, 1889; Montenegro, on July 1, 1893 (but withdrew from the Union on April 1, 1900); Norway, on April 13, 1896; Japan, on July 15, 1899; Denmark, on July 1, 1903; Sweden, on August 1, 1904, and Great Britain's colonies, the Transvaal, and the Orange River Colony, on May 6, 1903.

The three nations of first rank not yet members of the Union are, the United States, Russia, and Austria-Hungary.

An international conference was held at Paris from April 15 to May 4, 1896, for the purpose of discussing proposed amendments of the text of the Convention, and certain modifications of the treaty were agreed upon and signed on May 4, 1896.

The securing of copyright protection in any one of the countries of the Union by full compliance with the formalities prescribed by the laws or ordinances of that country as to registration, deposit of copies, etc., extends this protection to each and every other country of the Union.

As the United States is not as yet a member of the International Copyright Union, registration at Washington does not secure protection abroad. The Copyright Office at Washington has no power to take any action whatever as regards registration in any foreign country for copyright protection; and neither the Librarian of Congress nor the Register of Copyrights can take charge of copyright entries desired to be made abroad, or make any arrangements for registration for protection in European countries.

The so-called "International Copyright Act" (Act of March 3, 1891,) extends the privilege of copyright *in the United States* to foreign authors, citizens of certain foreign countries; and the Act of March 3, 1905, secures a special *ad-interim* protection for one year for the works of foreign authors. But these Acts do not secure any privileges of copyright abroad to American citizens except as some foreign countries, not previously granting copyright to citizens of the United States, may, since the enactment of these laws, have extended copyright privileges to American authors in order to thus secure, under the operation of these acts, copyright privileges for their own citizens in the United States.

BERNE INTERNATIONAL COPYRIGHT UNION.

Text of the Convention creating an International Union for the protection of Literary and Artistic Works, Signed at Berne, Switzerland, September 9, 1886, Ratified September 5, 1887.

Amendments to the International Copyright Convention of September 9, 1886, agreed to at Paris, May 4, 1896.

ARTICLE I.

The International Convention of the 9th of September, 1886, is modified as follows:

ARTICLE I.

Union to protect literary and artistic works. The contracting States are constituted into an Union for the protection of the rights of authors over their literary and artistic works.

ARTICLE II.

Authors to enjoy in other countries the rights granted to natives. Authors of any one of the countries of the Union, or their lawful representatives, shall enjoy in the other countries for their works, whether published in one of those countries or unpublished, the rights which the respective laws do now or may hereafter grant to natives.

Conditions and formalities of country of origin to be fulfilled. The enjoyment of these rights is subject to the accomplishment of the conditions and formalities prescribed by law in the country of origin of the work, and cannot exceed in the other countries the term of protection granted in the said country of origin.

Country of first publication to be considered country of origin. The country of origin of the work is that in which the work is first published, or if such publication takes place simultaneously in several countries of the Union, that one of them in which the shortest term of protection is granted by law.

Unpublished works. For unpublished works the country to which the author belongs is considered the country of origin of the work.

1. **ARTICLE II.** The first paragraph of Article II shall run as follows:

“Authors of any countries of the Union, or their lawful representatives, shall enjoy in the other countries for their works, either not published or published for the first time in one of those countries, the rights which the respective laws do now or shall hereafter grant to natives.”

A fifth paragraph is furthermore added, which runs thus:

"Posthumous works are included amongst protected works." Posthumous works.

2. ARTICLE III. Article III shall run as follows:

"Authors, not subjects of one of the countries of the Union, but who shall have published, or caused to be published for the first time, their literary or artistic works in one of those countries, shall enjoy for those works the protection accorded by the Berne Convention, and by the present additional act."

ARTICLE III.

Publishers of works published in one of the countries of the Union protected. The stipulations of the present Convention apply equally to the publishers of literary and artistic works published in one of the countries of the Union, but of which the authors belong to a country which is not a party to the Union.

ARTICLE IV.

Definition of "literary and artistic works." The expression "literary and artistic works" comprehends books, pamphlets, and all other writings; dramatic or dramatico-musical works; musical compositions with or without words; works of design, painting, sculpture, and engraving; lithographs, illustrations, geographical charts; plans, sketches, and plastic works relative to geography, topography, architecture, or science in general; in fact, every production whatsoever in the literary, scientific, or artistic domain which can be published by any mode of impression or reproduction.

ARTICLE V.

Exclusive right of translation. Authors of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries the exclusive right of making or authorizing the translation of their works until the expiration of ten years from the publication of the original work in one of the countries of the Union.

Works published in incomplete parts. For works published in incomplete parts ("livraisons") the period of ten years commences from the date of publication of the last part of the original work.

Works published in several volumes. For works composed of several volumes published at intervals, as well as for bulletins or collections ("cahiers") published by literary or scientific societies, or by private persons,

3. ARTICLE V. The first paragraph of Article V shall run as follows:

"Authors of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries the exclusive right of making or authorizing the translation of their works during the whole duration of the right in the original work. But the exclusive right of translation shall cease to exist when the author shall not have made use of it within a period of ten years from the first publication of the original work, by publishing or causing to be published in one of the countries of the Union, a translation in the language for which protection shall be claimed."

Right of translation expires after ten years.

each volume, bulletin, or collection is, with regard to the period of ten years, considered a separate work.

Terms to date from end of year of publication.

In the cases provided for by the present article, and for the calculation of the period of protection, the 31st of December of the year in which the work was published is admitted as the date of publication.

ARTICLE VI.

Translations protected.

Authorized translations are protected as original works. They consequently enjoy the protection stipulated in Articles II and III as regards their unauthorized reproduction in the countries of the Union.

New translations by other writers.

It is understood that, in the case of a work for which the translating right has fallen into the public domain, the translator cannot oppose the translation of the same work by other writers.

ARTICLE VII.

Reproduction of newspaper articles.

Articles from newspapers or periodicals published in any of the countries of the Union may be reproduced in original or in translation in the other countries of the Union, unless the authors or publishers have expressly forbidden it. For periodicals it is sufficient if the prohibition is made in a general manner at the beginning of each number of the periodical.

Articles of political discussion, etc., not protected.

This prohibition cannot in any case apply to articles of political discussion, or to the reproduction of news of the day or *current topics*.

4. ARTICLE VII. Article VII shall run as follows:

"Serial novels ('Romans-feuilletons'), including novels published in newspapers or periodicals of one of the countries of the Union, cannot be reproduced, in original or in translation, in the other countries, without the authorization of their authors or of their lawful representatives.

Serial novels protected.

"This applies equally to other articles in newspapers or periodicals, whenever the authors or publishers shall have expressly declared in the paper or periodical in which they may have published them, that they forbid their reproduction.

Newspaper articles protected.

"For periodicals it is sufficient if the prohibition is made in a general way, at the beginning of each number.

Periodicals protected.

"In the absence of prohibition, reproduction will be permitted on condition of indicating the source.

Reproduction permitted if credit is given.

"This prohibition cannot in any case apply to articles of political discussion, to the news of the day, or to current topics."

ARTICLE VIII.

Extracts
from literary
or artistic
works.

As regards the liberty of extracting portions from literary or artistic works for use in publications destined for educational or scientific purposes, or for chrestomathies, the matter is to be decided by the legislation of the different countries of the Union, or by special arrangements existing or to be concluded between them.

ARTICLE IX.

Representa-
tion of dra-
matic or dra-
matico-mu-
sical works.

The stipulations of Article II apply to the public representation of dramatic or dramatico-musical works, whether such works be published or not.

Transla-
tions of dra-
matic works.

Authors of dramatic or dramatico-musical works, or their lawful representatives, are, during the existence of their exclusive right of translation, equally protected against the unauthorized public representation of translations of their works.

Public per-
formance of
musical
works.

The stipulations of Article II apply equally to the public performance of unpublished musical works, or of published works in which the author has expressly declared on the title page or commencement of the work that he forbids the public performance.

ARTICLE X.

Adapta-
tions, etc.,
considered
as infringe-
ment.

Unauthorized indirect appropriations of a literary or artistic work of various kinds, such as *adaptations, arrangements of music*, etc., are specially included amongst the illicit reproductions to which the present Convention applies, when they are only the reproduction of a particular work, in the same form, or in another form, with non-essential alterations, or abridgments, so made as not to confer the character of a new original work.

Courts of
the various
countries to
conform to
their own
laws.

It is agreed that, in the application of the present article, the tribunals of the various countries of the Union will, if there is occasion, conform themselves to the provisions of their respective laws.

ARTICLE XI.

Author's
name to be
indicated on
work.

In order that the authors of works protected by the present Convention shall, in the absence of proof to the contrary, be considered as such, and be consequently admitted to institute proceedings against pirates before the courts of the various countries of the Union, it will be sufficient that their name be indicated on the work in the accustomed manner.

Publisher
of anony-
mous or
pseudony-
mous works
considered
as represen-
tative of au-
thor.

For anonymous or pseudonymous works, the publisher whose name is indicated on the work is entitled to protect the rights belonging to the author. He is, without other proof, reputed the lawful representative of the anonymous or pseudonymous author.

Courts may
require cer-
tificate of ac-
complish-
ment of for-
malities.

It is, nevertheless, agreed that the tribunals may, if necessary, require the production of a certificate from the competent authority to the effect that the formalities prescribed by law in the country of origin have been accomplished, as contemplated in Article II.

ARTICLE XII.

Seizure of
pirated cop-
ies.

Pirated works may be seized on importation into those countries of the Union where the original work enjoys legal protection.

The seizure shall take place conformably to the domestic law of each State.

ARTICLE XIII.

Each gov-
ernment to
exercise su-
pervision.

It is understood that the provisions of the present Convention cannot in any way derogate from the right belonging to the Government of each country of the Union to permit, to control, or to prohibit, by measures of domestic legislation or police, the circulation, representation, or exhibition of any works or productions in regard to which the competent authority may find it necessary to exercise that right.

ARTICLE XIV.

Convention
to apply to
all works
not in public

Under the reserves and conditions to be determined by common agreement,* the present Convention applies

5. ARTICLE XII. Article XII shall run as follows:

"Pirated works may be seized by the competent authorities of the countries of the Union where the original work has a right to legal protection.

"The seizure will take place conformably to the domestic legislation of each country."

*See paragraph 4 of Final Protocol, p. 41.

domain at the time of its going into force. to all works which at the moment of its coming into force have not fallen into the public domain in the country of origin.

ARTICLE XV.

Right of governm'ts to make separate treaties reserv'd It is understood that the Governments of the countries of the Union reserve to themselves respectively the right to enter into separate and particular arrangements between each other, provided always that such arrangements confer upon authors or their lawful representatives more extended rights than those granted by the Union, or embody other stipulations not contrary to the present Convention.

ARTICLE XVI.

International office. An International Office is established, under the name of "Office of the International Union for the Protection of Literary and Artistic Works."

This Office, of which the expenses will be borne by the Administrations of all the countries of the Union, is placed under the high authority of the Superior Administration of the Swiss Confederation, and works under its direction. The functions of this Office are determined by common accord between the countries of the Union.

ARTICLE XVII.

Revisions of Convention. The present Convention may be submitted to revisions in order to introduce therein amendments calculated to perfect the system of the Union.

Future conferences. Questions of this kind, as well as those which are of interest to the Union in other respects, will be considered in Conferences to be held successively in the countries of the Union by delegates of the said countries.

Alterations of Convention must be by unanimous consent. It is understood that no alteration in the present Convention shall be binding on the Union except by the unanimous consent of the countries comprising it.

ARTICLE XVIII.

Accession
of other
countries.

Countries which have not become parties to the present Convention, and which grant by their domestic law the protection of rights secured by this Convention, shall be admitted to accede thereto on request to that effect.

Such accession shall be notified in writing to the Government of the Swiss Confederation, who will communicate it to all the other countries of the Union.

Such accession shall imply full adhesion to all the clauses and admission to all the advantages provided by the present Convention.

ARTICLE XIX.

Accession
for colonies
or foreign
possessions.

Countries acceding to the present Convention shall also have the right to accede thereto at any time for their colonies or foreign possessions.

They may do this either by a general declaration comprehending all their colonies or possessions within the accession, or by specially naming those comprised therein, or by simply indicating those which are excluded.

ARTICLE XX.

Convention
to take effect
three mos.
after ex-
change of
ratifications

The present Convention shall be put in force three months after the exchange of the ratifications, and shall remain in effect for an indefinite period until the termination of a year from the day on which it may have been denounced.

Withdraw-
al from the
Convention.

Such denunciation shall be made to the Government authorized to receive accessions, and shall only be effective as regards the country making it, the Convention remaining in full force and effect for the other countries of the Union.

ARTICLE XXI.

Convention
to be ratified
within one
year.

The present Convention shall be ratified, and the ratifications exchanged at Berne, within the space of one year at the latest.

6. ARTICLE XX. The second paragraph of Article XX shall run as follows:

“This denunciation shall be addressed to the Government of the Swiss Confederation. It shall only take effect in respect of the country which shall have made it, the Convention remaining operative for the other countries of the Union.”

Denuncia-
tion of trea-
ty.

ADDITIONAL ARTICLE.

Convention
not to affect
existing con-
ventions
confering
more extend-
ed rights.

The Convention concluded this day in no wise affects the maintenance of existing conventions between the contracting States, provided always that such conventions confer on authors, or their lawful representatives, rights more extended than those secured by the Union, or contain other stipulations which are not contrary to the said Convention.

FINAL PROTOCOL.

Protection
of photo-
graphs.

1. As regards Article IV, it is agreed that those countries of the Union where the character of artistic works is not refused to photographs, engage to admit them to the benefits of the Convention concluded to-day, from the date of its coming into effect. They are, however, not bound to protect the authors of such works further than is permitted by their own legislation, except in the case of international engagements already existing, or which may hereafter be entered into by them.

Photograph
of work of
art protect-
ed.

It is understood that an authorized photograph of a protected work of art shall enjoy legal protection in all the countries of the Union, as contemplated by the said Convention, for the same period as the principal right of reproduction of the work itself subsists, and within the limits of private arrangements between those who have legal rights.

Choreogra-
phic works
admitted to
the benefits
of the Con-
vention in
countries
whose legis-
lation in-
cludes them.

2. As regards Article IX, it is agreed that those countries of the Union whose legislation implicitly includes choreographic works amongst dramatico-musical works, expressly admit the former works to the benefits of the Convention concluded this day.

ARTICLE II.

The "Protocole de Clôture" annexed to the Convention of the 9th September, 1886, is modified as follows:

1. No. 1. This number shall run as follows:

"1. With regard to Article IV, it is agreed as follows:

"(a.) In the countries of the Union in which protection is accorded not only to architectural designs, but to the actual works of architecture, those works are admitted to the benefit of the provisions of the Convention of Berne and of the present additional act.

Works of
architecture
protected.

(b.) Photographic works, and those obtained by similar processes, are admitted to the benefit of the provisions of these acts, in so far as the domestic legislation allows this to be done, and according to the measure of protection which it gives to similar national works.

Photogra-
phic works.

It is understood that the authorized photograph of a protected work of art enjoys legal protection in all the countries of the Union, within the meaning of the Convention of Berne and the present additional act, as long as the principal right of reproduction of this work itself lasts, and within the limits of private conventions between those who have legal rights."

It is, however, understood that questions which may arise on the application of this clause shall rest within the competence of the respective tribunals to decide.

Mechanical reproduction of music not infringement.

3. It is understood that the manufacture and sale of instruments for the mechanical reproduction of musical airs which are copyright, shall not be considered as constituting an infringement of musical copyright.

4. The common agreement alluded to in Article XIV of the Convention is established as follows:

Application of the Convention.

The application of the Convention to works which have not fallen into the public domain at the time when it comes into force, shall operate according to the stipulations on this head which may be contained in special conventions, either existing or to be concluded.

Each country to regulate for itself the manner in which Convention shall apply.

In the absence of such stipulations between any countries of the Union, the respective countries shall regulate, each for itself, by its domestic legislation, the manner in which the principle contained in Article XIV is to be applied.

Organization of International Office.

5. The organization of the International Office, established in virtue of Article XVI of the Convention, shall be fixed by a regulation which shall be drawn up by the Government of the Swiss Confederation.

Official language to be French.

The official language of the International Office will be French.

2. No. 4. This number shall run as follows:

4. "The common agreement provided for in Article XIV of the Convention is determined as follows:

Application of the Convention.

"The application of the Convention of Berne and of the present additional act to works that had not fallen into the public domain in the country of origin when these acts came into force, shall take effect according to the stipulations relative to this point which are contained in special conventions either now existing or to be concluded to this effect.

"In the absence of such stipulations between countries of the Union, the respective countries shall regulate, each for itself, by its domestic legislation, the manner in which the principle contained in Article XIV is to be applied.

"The stipulations of Article XIV of the Convention of Berne and of the present number of the 'Protocole de Clôture' apply equally to the exclusive right of translation, as granted by the present additional act.

Exclusive right of translation.

"The above-mentioned temporary provisions are applicable in case of new accessions to the Union."

Duties of International Office.

The International Office will collect all kinds of information relative to the protection of the rights of authors over their literary and artistic works. It will arrange and publish such information. It will study questions of general utility likely to be of interest to the Union, and, by the aid of documents placed at its disposal by the different administrations, will edit a periodical publication in the French language treating questions which concern the Union. The Governments of the countries of the Union reserve to themselves the faculty of authorizing, by common accord, the publication by the Office of an edition in one or more other languages, if experience should show this to be requisite.

The International Office will always hold itself at the disposal of members of the Union, with the view to furnish them with any special information they may require relative to the protection of literary and artistic works.

Country where a conference is to be held to prepare programme.

The Administration of the country where a Conference is about to be held, will prepare the programme of the Conference with the assistance of the International Office.

Director of the International Office.

The Director of the International Office will attend the sittings of the Conferences, and will take part in the discussion without a deliberate voice. He will make an annual report on his administration, which shall be communicated to all the members of the Union.

Expenses of the International Office to be shared by contracting states.

The expenses of the Office of the International Union shall be shared by the contracting States. Unless a fresh arrangement be made, they cannot exceed a sum of sixty thousand francs a year. This sum may be increased by the decision of one of the Conferences provided for in Article XVII.

Method of sharing expenses.

The share of the total expense to be paid by each country shall be determined by the division of the contracting and acceding States into six classes, each of which shall contribute

in the proportion of a certain number of units, viz:

First class	25 units
Second class	20 units
Third class	15 units
Fourth class	10 units
Fifth class.....	5 units
Sixth class.....	3 units

These coefficients will be multiplied by the number of States of each class, and the total product thus obtained will give the number of units by which the total expense is to be divided. The quotient will give the amount of the unity of expense.

Each State will declare, at the time of its accession, in which of the said classes it desires to be placed.

Swiss Administration to prepare the budget of the International Office, etc.

The Swiss Administration will prepare the budget of the Office, superintend its expenditure, make the necessary advances, and draw up the annual account, which shall be communicated to all the other Administrations.

Next Conference to be held at Paris.

6. The next Conference shall be held at Paris between four and six years from the date of the coming into force of the Convention.

The French Government will fix the date within these limits after having consulted the International Office.

Exchange of ratifications.

7. It is agreed that, as regards the exchange of ratifications contemplated in Article XXI, each contracting party shall give a single instrument, which shall be deposited, with those of the other States, in the Government archives of the Swiss Confederation. Each party shall receive in exchange a copy of the *procès-verbal* of the exchange of ratifications, signed by the plenipotentiaries present.

Present Protocol integral part of Convention.

The present Final Protocol, which shall be ratified with the Convention concluded this day, shall be considered as forming an integral part of the said Convention, and shall have the same force, effect, and duration.

ARTICLE III.

The countries of the Union which have not become parties to the present Additional Act shall be allowed to accede to it at any time, on their request to that effect. The same rule shall apply to the countries which may eventually accede to the Convention of the 9th September, 1886. It shall be sufficient for the purpose if a notification is addressed in writing to the Swiss Federal Council, who will, in turn, notify this accession to the other Governments.

Accession
of other
countries.

ARTICLE IV.

The present Additional Act shall have the same force and duration as the Convention of the 9th September, 1886.

Additional
Act to be
ratified.

It shall be ratified, and the ratifications shall be exchanged at Paris in the form adopted for that Convention, as soon as possible, and within a year at the latest.

It shall come into force between the countries who have ratified it three months after this exchange.

DECLARATION interpreting certain Provisions of the Convention of Berne of September 9, 1886, and of the Additional Act, signed at Paris, May 4, 1896.

1. By the terms of paragraph 2 of Article II of the Convention, the protection granted by the aforementioned Acts depends solely on the accomplishment in the country of origin of the work of the conditions and formalities that may be prescribed by the legislation of that country. The same rule applies to the protection of the photographic works mentioned in No. 1 (b), of the modified "Protocole de Clôture."

Interpretation of Convention.

2. By *published* works must be understood works actually issued to the public in one of the countries of the Union. Consequently, the representation of a dramatic or dramatico-musical work, the performance of a musical work, the exhibition of a work of art, do not constitute publication in the sense of the aforementioned Acts.

3. The transformation of a novel into a play, or of a play into a novel, comes under the stipulations of Article X.

The countries of the Union which are not parties to the present Declaration shall be allowed to accede thereto at any time on their request to that effect. The same rule shall apply to countries which may accede either to the Convention of the 9th September, 1886, or to this Convention or to the Additional Act of the 4th May, 1896. It will be sufficient for this purpose if a notification be addressed in writing to the Swiss Federal Council, who will, in turn, notify this accession to the other Governments.

The present Declaration shall have the same force and duration as the Acts to which it refers.

It shall be ratified, and the ratifications shall be exchanged at Paris, in the form adopted for those Acts, as soon as possible, and within a year at the latest.

APPENDIX.

II.

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